

**KANE LAW FIRM**  
1154 S. Crescent Heights Blvd.  
Los Angeles, CA 90035

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Brad S. Kane (SBN 151547)  
bkane@kanelaw.la  
1154 S. Crescent Heights. Blvd.  
Los Angeles, CA 90035  
Tel: (323) 697-9840  
Fax: (323) 571-3579

Trey Brown (SBN 314469)  
trey.brown@vixenmediagroup.com  
11271 Ventura Blvd. #717  
Studio City, CA 91604

*Attorneys for Defendants*  
VXN GROUP, LLC and MIKE MILLER

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

MACKENZIE ANNE THOMA,  
a.k.a. KENZIE ANNE, an  
individual and on behalf of all  
others similarly situated,

Plaintiff,

v.

VXN GROUP, LLC, a Delaware  
limited liability company; MIKE  
MILLER, an individual; and DOES  
1 to 100, inclusive,

Defendants.

Case No. **2:23-cv-04901 WLH (AGRx)**

**DECLARATION OF BRAD S. KANE  
IN SUPPORT OF DEFENDANTS'  
MOTION FOR LEAVE TO FILE  
SUMMARY JUDGMENT MOTION  
AND EXTENSION OF TIME**

*[Filed concurrently with (1) Notice of  
Motion and Motion; and (2) Proposed  
Order]*

Hearing Date: January 3, 2025  
Time: 1:30pm

DECLARATION OF BRAD S. KANE

1 I, Brad S. Kane, hereby declare as follows:

2 1. I am an attorney licensed to practice law in the State of California  
3 since 1990, the State of Alaska since 1991 and Washington State since 2003.

4 I am the owner of the Kane Law Firm (“KLF”), and counsel for Defendants VNX  
5 Group, LLC and Mike Miller (collectively, “Defendants”). I am personally familiar  
6 with, and, if called upon, could and would testify to the facts contained herein from  
7 my personal knowledge.

8 2. On July 16, 2024, Defendants issued to Plaintiff a Request for  
9 Production of Documents containing 36 separate requests (“Document Request”).

10 3. On August 29, 2024, Plaintiff issued a response to Defendants’  
11 Document Request. Among myriad objections, Plaintiff variously disclaimed  
12 possession of responsive materials or indicated that “after a reasonable search,” she  
13 “will produce responsive documents within her custody and control.”

14 4. To date, Plaintiff has failed to produce any documents in response to  
15 Defendants’ Document Requests.

16 5. On September 8, 2024, pursuant to mutual agreement, Plaintiff and  
17 Defendants stipulated to the extension of the Phase I discovery deadline to  
18 September 18, 2024 for the sole limited purpose of allowing Plaintiff to review  
19 discovery produced by Defendants prior to conducting Plaintiff’s ordered Rule  
20 30(b)(6) depositions of Defendants’ corporate representatives.

21 6. On October 31, 2024, I and co-counsel Trey Brown met and conferred  
22 with Plaintiff’s counsel Sarah Cohen (“Cohen”) via Zoom teleconference under  
23 Local Rule 7-3 to discuss Defendants’ intention to file a motion for summary  
24 judgement and potential areas of agreement regarding the applicable law and  
25 undisputed material facts. Ultimately, the parties were unable to reach any  
26 agreement.

1           7.     During the parties’ October 31, 2024 meet and confer, Cohen did not  
2 mention the Court’s Standing Order for Motions for Summary Judgment or the  
3 need to file a joint brief.

4           8.     Prior to the filing of Defendants’ Motion for Summary Judgment on  
5 November 12, 2024, I reviewed the dockets of other cases assigned to this Court to  
6 determine the applicability of the Court’s Standing Order for Motions for Summary  
7 Judgment. I noted that the Standing Order had been filed on the docket of many  
8 cases, whereas the Standing Order had not been entered on the docket in this matter.

9           9.     On November 14, 2024, I emailed Cohen to schedule a meet and  
10 confer under Local Rule 7-3 to discuss Defendants’ intention to file a Motion for  
11 Leave to file a Renewed Motion for Summary Judgment (“Motion”).

12           10.    On November 15, 2024, I and co-counsel Trey Brown met and  
13 conferred with Cohen counsel via Zoom teleconference. During the conference:

14               a.    I asked that Plaintiff stipulate to Defendant’s Motion so the  
15                    Refiled Motion of Summary Judgment could still be heard on the  
16                    original January 3, 2025 hearing date. Since Defendants’ portions  
17                    of the joint brief and appendix were essentially complete except  
18                    for reformatting, Plaintiff would still have her full time to  
19                    complete her portions.

20               b.    Cohen expressed concern regarding the difficulty of  
21                    simultaneously preparing responses to (i) Defendant’s Motion of  
22                    Evidentiary Sanctions [Dkt. 115], and (ii) the Renewed Motion  
23                    for Summary Judgment. In response, Defendants offered to  
24                    stipulate to an extension of both hearing dates to allow Plaintiff  
25                    adequate time to oppose both motions. Cohen rejected  
26                    Defendants’ offer.

1 c. Finally, Cohen refused to confer regarding the drafting of any  
2 joint materials required under the Court's Standing Order on  
3 Motions for Summary Judgment unless and until the Court grants  
4 this Motion. Further, Plaintiff threatened to seek Rule 11  
5 sanctions if Defendants refiled their Motion for Summary  
6 Judgment.

7  
8 I declare under penalty of perjury that the foregoing is true and  
9 correct. Executed on November 22, 2024 at Los Angeles, California.

10  
11 /s/ Brad S. Kane

12 Brad S. Kane  
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